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September 11, 2007

To: Supervisor Zev Yaroslavsky, Chairman
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From: William T Fujioka
Chief Executive Officer

WASHINGTON, D.C. UPDATE

Pursuit of County Position on Rail Safety Legislation

Legislation is pending before Congress to reauthorize Federal Railroad Administration (FRA) rail safety programs and activities, which were last authorized in 1994, and which have been reauthorized through appropriations bills every year since Federal Fiscal Year (FFY) 1998. On June 14, 2007, the House Transportation and Infrastructure Committee amended and approved H.R. 2095 (Oberstar, D-MN), the Federal Railroad Safety Improvement Act of 2007, which would reauthorize FRA rail safety programs for four years. The Senate version, S. 1889 (Lautenberg, D-NJ), the Railroad Safety Enhancement Act of 2007, which reauthorizes FRA programs for six years, was introduced on July 26, 2007.

Both bills would require the U.S. Department of Transportation (DOT) to develop a long-term strategy for improving rail safety, and would improve rail safety through the following provisions:

Enforcement and Inspections: Both bills increase civil penalties for violation of rail safety laws and authorize the DOT to monitor and record railroad radio communications to assist in accident prevention and accident investigations. H.R. 2095 requires the FRA to nearly double the number of rail safety inspectors to a total of 800 while S. 1889 requires the FRA to increase its number of employees by a total of 200 without specifying the increased number of inspectors.

Track Safety: Defective track is the leading cause of train accidents. To improve the detection of track defects, both bills require the purchase of Gage Restraint Measurement System vehicles and track geometry vehicles to deploy in each FRA region. H.R. 2095 requires the issuance of regulations, which require railroad carriers to manage the rail in their tracks in a manner that will minimize accidents due to internal rail flaws, and which set standards for concrete rail ties. Instead of requiring new regulations, S. 1889 requires that a study be conducted to determine whether track inspection and repair methods and/or requirements should be revised.

Highway-Rail Grade Crossings: Both bills require railroad carriers to establish toll-free telephone service for reporting grade crossing problems, remove visual obstructions near grade crossings, and authorize funds for a public information and education program to help prevent rail accidents. H.R. 2095 establishes a new program to provide grants to state and local governments for emergency grade crossing safety improvements at locations where there have been major accidents while S. 1889 creates a grant program for safety improvements to railroad infrastructure for which railroad carriers and state and local governments may apply for funds.

Rail Worker Fatigue: Both bills seek to reduce accidents associated with employee fatigue, which, according to the FRA, is at least a contributing factor in an estimated one-fourth of serious rail accidents involving human factors. Both bills increase rest periods for railroad workers by increasing the minimum number of off-duty hours for them from 8 to 10 hours in any 24-hour period and requiring at least 24 consecutive hours off-duty in each 7-day period. They also require railroad carriers to prepare fatigue management plans.

Train Control Technology: Both bills mandate implementation of automated positive train control (PTC) technology capable of preventing train collisions, derailments from speeding trains, and other accidents that, otherwise, could result from human errors. They also establish a new grant program to promote the development of train control technology.

Neither bill includes language which would increase state and local oversight and enforcement of rail safety standards. However, Representative Napolitano, who serves on the House Transportation and Infrastructure Committee plans to offer a floor amendment to H.R. 2095 giving states the regulatory authority to address local safety hazards relating to rail safety. According to her staff, this amendment is needed because Federal courts have preempted attempts by states to implement rail safety provisions where the FRA has not acted.

On May 24, 2005, your Board adopted policies to support State or Federal legislation that is designed to prevent rail accidents and to support legislation providing more authority for local oversight and enforcement over rail safety standards. **Based on these policies, the County's Washington, D.C. advocates will support H.R. 2095, S. 1889, or similar**

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legislation that would improve rail safety and increase state and local oversight and enforcement of rail safety standards, including support for Representative Napolitano's amendment to H.R. 2095.

House floor action on the bill is expected to take place in October. The Senate Commerce, Transportation, and Science Committee, which has jurisdiction over the FRA and rail safety, also is expected to mark up S. 1889 next month.

We will continue to keep you advised.

WTF:GK
MAL:MT:acn

c: All Department Heads
Legislative Strategist